

Georgia Hensley
August 11, 2023

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UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF INDIANA

CIVIL ACTION NO. 1:22-cv-01828-SEB-MG

JOHN DOE,)
)
Plaintiff,)
)
V.)
)
BUTLER UNIVERSITY,)
)
Defendant.)

Deposition by Zoom of GEORGIA HENSLEY,
a witness who appeared remotely before me,
Valerie Fillenwarth, RPR, a Notary Public in
and for the County of Johnson, State of
Indiana, taken on behalf of the Plaintiff, with
all parties appearing via Zoom, taken on
August 11, 2023, commencing at 9:30 a.m.,
pursuant to all applicable rules, with Notice
as to the time and place thereof.

FILLENWARTH REPORTING SERVICE
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Whiteland, Indiana 46184
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| <p style="text-align: right;">2</p> <p>1 A P P E A R A N C E S</p> <p>2</p> <p>3 FOR THE PLAINTIFF:</p> <p>4 Mr. Jonathan C. Little</p> <p>5 SAEED & LITTLE, LLP</p> <p>6 133 West Market Street, #189</p> <p>7 Indianapolis, Indiana 46202</p> <p>8 317.721.9214 (Phone)</p> <p>9 jon@slawfirm.com</p> <p>10</p> <p>11 Ms. Regina Federico</p> <p>12 NESENOFF & MILTENBERG, LLP</p> <p>13 101 Federal Street, 19th Floor</p> <p>14 Boston, Massachusetts 02110</p> <p>15 617.209.2188 (Phone)</p> <p>16 Rfederico@nmllplaw.com</p> <p>17</p> <p>18 FOR THE DEFENDANT:</p> <p>19 Ms. Liberty L. Roberts</p> <p>20 CHURCH CHURCH HITTLE & ANTRIM</p> <p>21 Two North Ninth Street</p> <p>22 Noblesville, Indiana 46060</p> <p>23 317.773.2190 (Phone)</p> <p>24 Lroberts@cchalaw.com</p> <p>25</p> | <p style="text-align: right;">4</p> <p>1 GEORGIA HENSLEY,</p> <p>2 having been first duly sworn to tell the truth,</p> <p>3 the whole truth, and nothing but the truth,</p> <p>4 testified as follows:</p> <p>5 DIRECT EXAMINATION,</p> <p>6 QUESTIONS BY MR. LITTLE:</p> <p>7 Q. Ma'am, can you state and spell your name for</p> <p>8 the record, please?</p> <p>9 A. Georgia, G-E-O-R-G-I-A, Hensley, H-E-N-S-L-E-Y.</p> <p>10 Q. Okay. Ms. Hensley, how are you currently</p> <p>11 employed?</p> <p>12 A. I am the director of Institutional Equity and</p> <p>13 Title IX coordinator at Butler University.</p> <p>14 Q. And how long have you had that position?</p> <p>15 A. That position, about a month. Before that, I</p> <p>16 served, though, as the Title IX coordinator,</p> <p>17 and I have been there for a little over a year.</p> <p>18 Q. So when did you start as the Title IX</p> <p>19 coordinator?</p> <p>20 A. In July of 2022.</p> <p>21 Q. What did you do before that?</p> <p>22 A. I was a civil rights and Title IX private</p> <p>23 attorney in Kentucky.</p> <p>24 Q. You were a private lawyer in Kentucky?</p> <p>25 A. Yes.</p> |
| <p style="text-align: right;">3</p> <p>1 I N D E X O F E X A M I N A T I O N</p> <p>2</p> <p style="text-align: right;">Page</p> <p>3</p> <p>4 DIRECT EXAMINATION..... 4</p> <p>5 Questions by Mr. Little</p> <p>6</p> <p>7</p> <p>8 (NO EXHIBITS WERE MARKED FOR IDENTIFICATION.)</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> | <p style="text-align: right;">5</p> <p>1 Q. What -- how long did you practice law?</p> <p>2 A. Four years.</p> <p>3 Q. Four years.</p> <p>4 A. Long enough.</p> <p>5 Q. Long enough. Where did you go to law school?</p> <p>6 A. Brandeis, the University of Louisville law</p> <p>7 school.</p> <p>8 Q. Did you have Dan Canon as a professor?</p> <p>9 A. Oh, my gosh. But, no, I have Dan Canon as a</p> <p>10 friend.</p> <p>11 Q. Oh, well, Dan Canon is a lawyer at our law</p> <p>12 firm.</p> <p>13 A. I like Dan very much.</p> <p>14 Q. Yeah, he's a good guy.</p> <p>15 All right. So you started in July of</p> <p>16 2022. You understand today you're designated</p> <p>17 to speak about the Title IX process at Butler</p> <p>18 for 2020, 2021, and 2022? Is that your</p> <p>19 understanding?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. What did you do to prepare for the</p> <p>22 deposition today?</p> <p>23 A. I reviewed our previous policy, which was the</p> <p>24 policy that I believe was in place for the case</p> <p>25 that's at issue in this matter. I also</p> |

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| <p style="text-align: right;">6</p> <p>1 reviewed it in comparison to our new policy, 2 which just went into effect about a month and a 3 half ago. 4 Q. Okay. What are the key differences between the 5 two policies? 6 A. Oh, goodness. Well, that's about 70 pages of 7 information, and there are quite a few 8 differences. But most of the differences are 9 related to the changes that we expect in 10 October. 11 Q. What changes do you expect in October? 12 A. Well, the federal law surrounding Title IX 13 promises to change exponentially under the 14 Biden administration. It was originally 15 supposed to happen in May. And so we had 16 prepared for it to happen in May. And then it 17 was moved until October, but we were 18 comfortable going ahead and expanding the 19 definitions of sexual harassment and gender 20 discrimination pursuant to the anticipated 21 changes in the regulations, which will be 22 effective in October. 23 Q. And does the definition of sexual harassment 24 include sexual orientation? 25 A. It does.</p> | <p style="text-align: right;">8</p> <p>1 A. Yes. 2 Q. Okay. Was sexual orientation included in the 3 2020 and 2021 version of Butler's policies? 4 A. It was not explicitly included in the policy 5 itself, although we did actually train as 6 though it was a part of it and we did actually 7 accept those cases. And what I mean by that is 8 every year we would train on our existing 9 policy, so the old policy, if you will, the 10 policy that is at issue in this case. And when 11 we trained on that policy and when we actually 12 implemented that policy, we did include it, 13 although the phrase itself wasn't included in 14 that policy document. 15 Q. Was the phrase homosexuality included as a 16 protected species in that policy? 17 A. So, again, I don't like to use the word 18 homosexuality. It's an antiquated term that is 19 often seen as offensive. But it was not 20 explicitly included. But as I said, we did 21 actually follow through on claims related to 22 sexual orientation or homosexuality, as you 23 referenced, and we did train on those. They 24 just weren't explicitly a part of the policy. 25 Q. Was the word like "gay" as part of the policy</p> |
| <p style="text-align: right;">7</p> <p>1 Q. Okay. What do we understand -- just so we're 2 clear, what does sexual orientation mean? 3 A. One's sexual preference or sexuality 4 preference. I'm a queer person myself. So I 5 like to think of it as one's own understanding 6 of their sexual identity. 7 Q. So it would include homosexuality? 8 A. I don't like to use the term homosexuality. 9 It's a little bit outdated, antiquated, if you 10 will, but, yes. 11 Q. If a student identified as gay, a male student 12 identified as gay, would that be covered in the 13 sexual harassment policy I guess is what I'm 14 getting at? 15 A. Yes. 16 Q. Okay. Now, do you know if the policy in place 17 in 2020 and 2021 included coverage for a male 18 student who would identify as gay? 19 A. So you're asking me if it included sexual 20 orientation? 21 Q. Let me ask you this first: If a -- so in this 22 case, my client identifies as gay, a gay man, 23 right. Would a gay man have that -- by saying 24 he's a gay man, that's sexual orientation for 25 Title IX purposes, right?</p> | <p style="text-align: right;">9</p> <p>1 as protected or "queer"? 2 A. It was not explicitly included, no, not in the 3 policy. 4 Q. Okay. And so you obviously were practicing law 5 at this time, so you -- you're getting -- you 6 don't have any firsthand knowledge of how 7 Butler handled cases at that time, right? 8 A. I've reviewed several cases. There have been 9 several cases that have come up, since I have 10 taken my position, that were related to the 11 previous coordinator's role, so I've reviewed 12 some of those cases, as necessary, in order to 13 prepare trainings and sort of ensure that we 14 don't see continued behaviors that might 15 represent a pattern of certain student conduct 16 on our campus, certainly from a prevention 17 aspect. But I was not involved in the 18 administration of this, no. 19 Q. All right. So you didn't participate in any of 20 the trainings at that time, right? 21 A. No. 22 Q. So your knowledge of what was trained on is 23 hearsay, right? 24 A. It comes -- 25 MS. ROBERTS: Just for the record, Jon,</p> |

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| <p style="text-align: right;">10</p> <p>1 she is designated as a 30(b)(6). This is not 2 her personal deposition. So I only -- I don't 3 know that we started out the record with that, 4 but, yes, she -- just for the record, she is 5 designated as the individual to testify to what 6 I believe was your second designated topic for 7 30(b)(6). But with that, I didn't mean to 8 interrupt. You can answer the question. 9 A. So I actually do. When I took my position, the 10 materials that Ms. Kanger used to train on were 11 provided to me, and I was able to preview those 12 and actually amend those in order to prepare 13 trainings that I felt more closely reassembled 14 the changes or the practices I would like to 15 see at Butler under my administration. So I 16 have reviewed those, I have amended those, and 17 used some of those similar documents in my own 18 trainings now. 19 BY MR. LITTLE: 20 Q. But you didn't attend the trainings in 2020 or 21 2021? 22 A. No. 23 Q. Okay. And you probably didn't attend -- did 24 you attend any trainings before July of 2022 at 25 Butler?</p> | <p style="text-align: right;">12</p> <p>1 where our students return to campus and our 2 staff often returns to campus. And so those 3 have been a routine part of my day recently. 4 And then I have reviewed our ATIXA link 5 or our link to the trainings that we utilize, 6 which is federally required to be placed on our 7 website and is so placed on our website. So I 8 reviewed that list as well. I didn't review 9 each individual training, but I did review the 10 list of trainings that are on that link. 11 Q. Where is this Teams folder at? 12 A. In Teams. 13 Q. Right. So if I asked you how to -- because I'm 14 going to ask for a copy of it, so I want to 15 make sure I ask. How would you go about 16 retrieving of these trainings in Teams folder? 17 A. They're just PowerPoint documents that I put in 18 a folder on Teams so that my staff can see them 19 and utilize them if they cover a training. 20 Q. So if I asked: Please provide a copy of the 21 trainings in your Teams folder, you'll know 22 exactly what that is? 23 A. Yes. For my administration, yes. I don't know 24 what Ms. Kanger did prior to my time at Butler. 25 Q. And for the ATIXA trainings, you said they're</p> |
| <p style="text-align: right;">11</p> <p>1 A. No. 2 Q. Okay. All right. What did you -- you said you 3 reviewed the policy -- two policies, the 4 current one and the previous one. What did you 5 do -- what else did you review? 6 A. I think that's really it. I had previously -- 7 I mean, like I said, in this role I pretty 8 constantly have to review our materials. But 9 in order to prepare for this deposition, really 10 just the two policies. 11 Q. Besides Ms. Roberts, did you speak with anybody 12 else? 13 A. No. 14 Q. Okay. And you've told me all the documents 15 you've reviewed, correct? 16 A. Yes. 17 Q. Okay. What other sources of information have 18 you drawn on to prepare for today's deposition? 19 Conversations, documents. I just want to make 20 sure I got the whole universe of everything you 21 looked at. 22 A. Okay. So we do keep our trainings, the 23 trainings that we utilize in a Teams folder, 24 obviously those are things that I review 25 regularly. It's obviously the time of year</p> | <p style="text-align: right;">13</p> <p>1 on the website. Where -- can you tell me where 2 they are on the Butler website? 3 A. I do not know the exact URL. I do know that 4 they are still placed on the Title IX office 5 landing page. They are required to be placed 6 there and they have been placed there since 7 I've been in this role. 8 Q. All right. Have you had a chance to review the 9 subpoena for today's deposition? 10 A. Yes. 11 Q. Okay. And you understand that you're speaking 12 on number 2, correct, part 2? 13 A. Yes. 14 Q. Okay. And so who could initiate the Title IX 15 process at Butler in 2020 and 2021? 16 A. So under the old policy, a student could 17 initiate a formal complaint, which is I'm 18 assuming what you're referring to as a formal 19 Title IX complaint. A student could initiate a 20 formal Title IX complaint or in rare -- very 21 rare circumstances, the Title IX coordinator 22 could sign the complaint his or herself. 23 Q. Okay. And what are those circumstances in 24 which a Title IX coordinator could sign a Title 25 IX complaint his or herself?</p> |

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| <p style="text-align: right;">14</p> <p>1 A. Those are circumstances where there's a pattern 2 of behavior that poses a risk to the campus 3 community at large or where there is an 4 immediate threat to a particular student's 5 safety or the student at issue's safety. So 6 one where emergency removal may also be on the 7 table. Very rare. 8 Q. Okay. And so either the students themselves 9 could initiate this process or, at that time, 10 Ms. Kanger? 11 A. Yes. 12 Q. Anybody else? 13 A. No. 14 Q. And what about terminating a process once it 15 was started, who at Butler at that time could 16 terminate a Title IX process once it was going? 17 A. The Title IX coordinator or a student. The 18 same rule. 19 Q. Just the complaining student, though? 20 A. Yes. 21 Q. If the Title IX coordinator, during this time, 22 noticed behavior that was concerning to her, 23 could she -- she could initiate a Title IX 24 process -- a formal Title IX process, correct? 25 A. It would have to be far more than behavior that</p> | <p style="text-align: right;">16</p> <p>1 between receiving a report from a student, 2 coming in, a student telling you what they have 3 experienced, and a student filling out an 4 official form and electing to continue the 5 formal Title IX process. 6 When the student fills out that form and 7 elects for a formal investigation, our policy 8 required that that investigation begin 9 promptly. So the notice was to be sent 10 promptly. As a matter of practice, I expect it 11 to be sent nearly same day, if not same day. 12 And then at that point with the notice, the 13 parties are meant to receive notice of the 14 investigator's identity and being -- they are 15 given at that point the chance to object to 16 that investigator because of bias or 17 conflict. 18 So to answer your question, there isn't a 19 particular amount of time with which we have to 20 send a notice. It's meant to be done very 21 promptly so that that investigation can begin 22 promptly. And just in practice, it usually is 23 same day or the following day. 24 Q. During this time -- so -- but you're basing all 25 that now off -- your statements that -- you</p> |
| <p style="text-align: right;">15</p> <p>1 was concerning. 2 Q. What would it have to be? 3 A. Well, as I stated, there is a very significant 4 implication when you sign a complaint yourself, 5 and so it would have to be more than you 6 noticed behavior. It would have to be that 7 you've noticed behavior and that behavior poses 8 a risk to -- or poses a threat, rather, to the 9 campus community or a particular student's 10 safety. 11 Q. Okay. And the Title IX process for sexual 12 harassment could -- strike that. 13 Okay. When a complaint was initiated 14 during this time period, so let's say you walk 15 in, you file the complaint, within how many 16 days did the responding party have to -- within 17 how many days did the responding party have to 18 be notified that there had been a complaint 19 filed? 20 A. It needed to be done promptly. So the 21 complaint would be filed, the student had -- at 22 that point, if they filled out a complaint 23 form, and I want to draw the distinction 24 between a report and a complaint, because 25 certainly there is -- there's a difference</p> | <p style="text-align: right;">17</p> <p>1 weren't there during this time, right? 2 A. That's correct. 3 Q. Okay. And so where did you arrive at the 4 understanding of what you just described to me? 5 A. The previous policy and our policy now expect a 6 prompt investigation. And I, as I've said, 7 have reviewed several of the cases that 8 preexisted my time in order to determine how to 9 create more efficient processes at Butler. 10 And, generally, those notices were sent very 11 quickly. 12 Q. Now, at Butler, we've established that -- and 13 I'm just using the term my client uses, 14 homosexuality, or being a gay man, that was not 15 explicitly covered in the sexual harassment 16 policy, correct? 17 A. No. 18 Q. So could a gay man have filed a complaint for 19 sexual harassment at Butler? 20 A. Yes. 21 Q. But how could he have done that if it was not 22 prohibited to harass a gay man at that time? 23 A. Well, it still would have gone seen as sexual 24 harassment under our previous policy and I 25 believe -- or discrimination, and I believe</p> |

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| <p style="text-align: right;">18</p> <p>1 that's how it would have been treated.</p> <p>2 I don't particularly know why it wasn't</p> <p>3 included, because in practice, we did receive</p> <p>4 those reports and we did administer Title IX</p> <p>5 and that policy to those claims. I'm not sure</p> <p>6 why it was not explicitly included because, as</p> <p>7 I've stated, I do know that it was included in</p> <p>8 practice.</p> <p>9 Q. How do you know it was included in practice?</p> <p>10 A. There are several instances with which I cannot</p> <p>11 speak about, due to confidentiality reasons,</p> <p>12 where those complaints were received.</p> <p>13 Q. So between 2020 and 2022, there were complaints</p> <p>14 made by gay men about sexual harassment at</p> <p>15 Butler University?</p> <p>16 A. There were student reports, not necessarily</p> <p>17 complaints filed, seeking formal resolution.</p> <p>18 But, yes, reports under Title IX, utilizing the</p> <p>19 Title IX policy, that were accepted.</p> <p>20 Q. Were there any formal Title IX processes at</p> <p>21 Butler University between 2020 and 2022 for gay</p> <p>22 men complaining of harassment?</p> <p>23 A. I'm not sure that I know the answer to that.</p> <p>24 Q. Okay. So once a complaint is made at the time,</p> <p>25 they are to be promptly -- the responding party</p> | <p style="text-align: right;">20</p> <p>1 opportunity to respond, their responses are</p> <p>2 included in the final report. Sometimes</p> <p>3 changes will occur to the preliminary report,</p> <p>4 not based on one arguing, right, over what may</p> <p>5 be fact or not, but perhaps a misstatement</p> <p>6 about what someone personally said. Students</p> <p>7 might say I didn't say that and correct that</p> <p>8 type of information. But other than that,</p> <p>9 the -- their responses are usually just</p> <p>10 provided in their entirety as attached to the</p> <p>11 final report, which is then provided to all the</p> <p>12 parties.</p> <p>13 Q. Okay. And then after the final report is</p> <p>14 provided to all the parties, what would happen</p> <p>15 next?</p> <p>16 A. The case would go to a hearing, if one was</p> <p>17 still being sought.</p> <p>18 Q. And who could seek a hearing?</p> <p>19 A. The complainant.</p> <p>20 Q. Exclusively?</p> <p>21 A. Yes.</p> <p>22 Q. Could the Title IX coordinator, based on the</p> <p>23 final report, say there's no need to have a</p> <p>24 hearing?</p> <p>25 A. So the Title IX coordinator can only step in</p> |
| <p style="text-align: right;">19</p> <p>1 is to receive prompt notice of the</p> <p>2 investigator's identity. Then what should have</p> <p>3 happen next?</p> <p>4 A. The parties get that period of time, I believe</p> <p>5 it was three days under the previous policy, to</p> <p>6 object to the investigator. After no objection</p> <p>7 is received, which is usually what happens,</p> <p>8 usually students don't respond at all, then the</p> <p>9 student at that point would receive an initial</p> <p>10 contact from the investigator just to set up a</p> <p>11 meeting, both the complainant and the</p> <p>12 respondent or complainants and respondents,</p> <p>13 just depending, would receive that initial</p> <p>14 outreach, get an opportunity to schedule a</p> <p>15 meeting, a first meeting with the investigator,</p> <p>16 and that is how the investigation really</p> <p>17 proceeds.</p> <p>18 Q. And then once -- how long is that investigation</p> <p>19 supposed to take?</p> <p>20 A. That varies based on the details of each</p> <p>21 individual case.</p> <p>22 Q. Okay. And then at the end of the</p> <p>23 investigation, what's supposed to happen?</p> <p>24 A. A preliminary investigation report is prepared,</p> <p>25 dispersed to the parties, the parties get an</p> | <p style="text-align: right;">21</p> <p>1 and dismiss, right -- dismiss a Title IX</p> <p>2 complaint when -- if all of the allegations</p> <p>3 were true, no Title IX or sexual misconduct,</p> <p>4 because our policy was more broad than just</p> <p>5 Title IX, but if no conduct was alleged as</p> <p>6 prohibited by that policy.</p> <p>7 So you take all of the allegations as</p> <p>8 true and accept those allegations as true, and</p> <p>9 if all of those allegations are true, has a</p> <p>10 violation of the policy occurred? That's the</p> <p>11 question we ask ourselves. Only if there is no</p> <p>12 policy violation alleged can the Title IX</p> <p>13 coordinator dismiss an action at that point.</p> <p>14 And then it would proceed to the appeal</p> <p>15 process where the parties would have an</p> <p>16 opportunity to say whether or not they</p> <p>17 disagreed with that, based on the standards for</p> <p>18 an appeal. But, again, that's also pretty</p> <p>19 rare.</p> <p>20 Q. Okay. So assuming the Title IX coordinator</p> <p>21 doesn't terminate the process, and the parties</p> <p>22 don't terminate -- and the complaining party</p> <p>23 doesn't terminate the process, what happens</p> <p>24 next?</p> <p>25 A. It goes to a hearing.</p> |

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| <p style="text-align: right;">22</p> <p>1 Q. Okay. Tell me what a hearing -- from 2020 to</p> <p>2 2022, what did a hearing entail?</p> <p>3 A. Well, until October it's very much going to be</p> <p>4 the same. A Title IX hearing --</p> <p>5 Q. October of this year?</p> <p>6 A. Yes. A Title IX hearing is an administrative</p> <p>7 hearing that, at Butler, we host on Zoom, we</p> <p>8 host virtually, we still do that. We utilize</p> <p>9 independent decision-makers; so decision-makers</p> <p>10 that are not of or have any affiliation with</p> <p>11 Butler.</p> <p>12 Those decision-makers will hear the</p> <p>13 evidence, listen to that evidence and then make</p> <p>14 a determination about whether or not a student</p> <p>15 is both, A, responsible, and, B, requiring</p> <p>16 sanctions. So if the student is found</p> <p>17 responsible, then does that responsibility</p> <p>18 necessitate an imposition of sanctions. And</p> <p>19 the decision-maker makes all of those</p> <p>20 decisions. But at the hearing --</p> <p>21 Q. When you're saying --</p> <p>22 A. Go ahead.</p> <p>23 Q. Let me slow you down here. When you say</p> <p>24 independent decision-maker, do you mean one</p> <p>25 person or like a panel?</p> | <p style="text-align: right;">24</p> <p>1 if one was to occur.</p> <p>2 Q. During this time period, who made that</p> <p>3 determination?</p> <p>4 A. It would have been the coordinator.</p> <p>5 Q. Maria?</p> <p>6 A. Yes. For the purposes of this matter, yes.</p> <p>7 Q. And it would have been Maria until June</p> <p>8 of 2022, right?</p> <p>9 A. Yes.</p> <p>10 Q. Okay.</p> <p>11 A. I'm not sure how long Maria was at Butler,</p> <p>12 though, so I'm not sure who it would have been</p> <p>13 before her.</p> <p>14 Q. All right. So there's a hearing, the</p> <p>15 independent decision-maker, how long do they</p> <p>16 have to make their decision?</p> <p>17 A. It varies. Usually it was relatively quickly.</p> <p>18 There's no requirement. I would say generally</p> <p>19 within a couple of weeks is what we see. And</p> <p>20 that has appeared to be consistent from before</p> <p>21 my time at Butler and now.</p> <p>22 Q. Okay. And during this time period, do you know</p> <p>23 if RAs were trained on these policies and</p> <p>24 procedures and guidelines we've just gone</p> <p>25 through?</p> |
| <p style="text-align: right;">23</p> <p>1 A. It depends on the circumstances. Usually one</p> <p>2 person. We have implemented a panel system</p> <p>3 before for cases where perhaps emergency</p> <p>4 removal was necessary or the Title IX</p> <p>5 coordinator signed the complaint rather than a</p> <p>6 student, just to add an extra layer of</p> <p>7 protection for our accused students or</p> <p>8 respondents. But for the most part, it would</p> <p>9 be one person.</p> <p>10 Q. Okay. What about cases where the police are</p> <p>11 involved, does Butler have to go -- during this</p> <p>12 time period, did Butler have to go through with</p> <p>13 the Title IX process if the police were</p> <p>14 involved?</p> <p>15 A. So, obviously, there's a bit of precedent that</p> <p>16 arose after this particular case, but during</p> <p>17 the period at issue, if the police were</p> <p>18 involved, it would have been a determination</p> <p>19 about whether or not it made more sense to</p> <p>20 pause a Title IX investigation, cooperate with</p> <p>21 law enforcement to the degree that's necessary,</p> <p>22 due to court involvement or the imposition of a</p> <p>23 subpoena or something to the tune of that</p> <p>24 nature, and then return to a Title IX</p> <p>25 investigation at the end of a criminal process,</p> | <p style="text-align: right;">25</p> <p>1 A. I do not know the answer to that.</p> <p>2 Q. Do you know about if investigators were trained</p> <p>3 on these timelines and policies and procedures</p> <p>4 that we've just discussed?</p> <p>5 A. I know that the investigator was subjected to</p> <p>6 an ATIXA training. I do not know if it would</p> <p>7 have included particular timelines, because our</p> <p>8 policy did not necessarily happen an</p> <p>9 investigative timeline.</p> <p>10 Q. Okay. Who -- how many investigators were there</p> <p>11 during this time?</p> <p>12 A. I believe one.</p> <p>13 Q. What was his name or her name?</p> <p>14 A. Kody Rother, perhaps.</p> <p>15 Q. Okay. And during this time period, what was</p> <p>16 the staffing of the Title IX office?</p> <p>17 A. So I believe that it changed during this</p> <p>18 period. And I'll explain. But, originally, I</p> <p>19 believe that Ms. Kanger reported directly to</p> <p>20 our vice president of student affairs,</p> <p>21 Dr. Frank Ross. And then I believe at some</p> <p>22 point, Maria began to serve as both a Title IX</p> <p>23 coordinator and assistant dean of students,</p> <p>24 which would have meant that she would have</p> <p>25 reported to Martha Dziwlik instead of, so our</p> |

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| <p style="text-align: right;">26</p> <p>1 dean of students, Martha Dziwlik, instead of</p> <p>2 Dr. Ross.</p> <p>3 Q. Okay. And so then underneath Maria -- or who</p> <p>4 would have reported to Maria at this time?</p> <p>5 A. Just the investigator. There was a period of</p> <p>6 time where our prevention specialist, who we</p> <p>7 will refer to as our sexual assault response</p> <p>8 and prevention, or SARP, personnel, there would</p> <p>9 have been a time -- I know there was a time</p> <p>10 during this period of time where that</p> <p>11 individual also reported to Maria. Although I</p> <p>12 believe that changed during her role -- during</p> <p>13 her time at Butler.</p> <p>14 Q. If during the -- if the Title IX coordinator</p> <p>15 during this time noticed, you know, bullying of</p> <p>16 a student for being gay, could she have</p> <p>17 initiated a Title IX process herself?</p> <p>18 A. It would, again, have to pose a severe risk to</p> <p>19 the campus community or the student or student</p> <p>20 safety in order for a Title IX coordinator to</p> <p>21 sign the complaint themselves without student</p> <p>22 consent.</p> <p>23 Federal law asks us to really defer to</p> <p>24 the student, as you would more akin to a</p> <p>25 restraining order or a civil protective order</p> | <p style="text-align: right;">28</p> <p>1 Q. During this time period, are you aware of any</p> <p>2 Title IX processes initiated by the Title IX</p> <p>3 coordinator?</p> <p>4 A. Yes.</p> <p>5 Q. What were the facts in that case?</p> <p>6 A. I don't know that I can answer that.</p> <p>7 Q. Well, let me ask you this, we'll go about it</p> <p>8 this way: What was it -- was there a severe</p> <p>9 like risk of physical danger as described or is</p> <p>10 it a --</p> <p>11 A. It was a pattern.</p> <p>12 Q. Pattern?</p> <p>13 A. Alleged pattern.</p> <p>14 Q. Oh, sorry. Go ahead, I talked over you.</p> <p>15 A. No, it was just a pattern of conduct alleged</p> <p>16 against an individual.</p> <p>17 Q. Okay. And how many -- was that -- was this the</p> <p>18 only one time during that time period that the</p> <p>19 Title IX office initiated?</p> <p>20 A. I'm not sure. I only know of one, but I'm not</p> <p>21 sure that that was the only one. I cannot make</p> <p>22 that representation.</p> <p>23 Q. Can the -- could the Title IX office at this</p> <p>24 time do their own investigations, like</p> <p>25 informally do an investigation?</p> |
| <p style="text-align: right;">27</p> <p>1 rather than utilizing it like a criminal</p> <p>2 process. So I would say that for mere bullying</p> <p>3 alone, no. It would require the student to</p> <p>4 move forward with the complaint themselves.</p> <p>5 Q. Can you give me an example of what severe risk</p> <p>6 would be?</p> <p>7 A. A student has a weapon and said that they plan</p> <p>8 to harm their partner.</p> <p>9 Q. Okay. So short of imminent physical harm, the</p> <p>10 Title IX coordinator at this time wouldn't have</p> <p>11 been able to act?</p> <p>12 A. Not necessarily. I believe at the beginning, I</p> <p>13 spoke about two distinct scenarios, one is</p> <p>14 where there's a pattern of behavior that may</p> <p>15 pose a risk to the campus community. So a</p> <p>16 scenario where perhaps three people complain of</p> <p>17 the exact same behaviors, so three individuals</p> <p>18 come forward and complain of a sexual assault</p> <p>19 at the hands of the same individual, that might</p> <p>20 be a circumstance where the risk to the campus</p> <p>21 community is so great that we are -- we should</p> <p>22 act even without student consent.</p> <p>23 Another circumstance is the immediate</p> <p>24 risk, right. So there is really a twofold</p> <p>25 evaluation that we do.</p> | <p style="text-align: right;">29</p> <p>1 A. So if a student does not want to move forward,</p> <p>2 can we --</p> <p>3 Q. No, that was a bad question. Let me ask a</p> <p>4 better question.</p> <p>5 During this time period, 2020, 2021,</p> <p>6 2022, if there was a set of circumstances,</p> <p>7 could the Title IX office say I'm going to go</p> <p>8 and find out more about this? Right? I'm</p> <p>9 going to investigate this.</p> <p>10 A. Probably not. To put things in perspective for</p> <p>11 you, we are required to reach out to students,</p> <p>12 ask students if they need support after we</p> <p>13 receive a report. Generally, if students don't</p> <p>14 respond or indicate that they don't want to</p> <p>15 move forward, we close the matter because,</p> <p>16 again, this is meant to be a scenario where the</p> <p>17 student is really given that autonomy,</p> <p>18 especially when the allegations are usually</p> <p>19 such that the student has allegedly been denied</p> <p>20 some bodily autonomy. So we really try to</p> <p>21 defer to the student. That's what federal law</p> <p>22 asks of us. So normally, no.</p> <p>23 And then as a logistical point, the Title</p> <p>24 IX coordinator at Butler is the only person</p> <p>25 tasked with reviewing reports. And there are</p> |

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| <p style="text-align: right;">30</p> <p>1 5,000 students and one coordinator. So if we 2 were to perform informal investigations about 3 every report received before making, you know, 4 a determination about whether or not we need to 5 sign a complaint, it would be logistically 6 impossible. 7 Q. You said federal law. What federal law are you 8 referring to? 9 A. So the implementing regulations surrounding 10 Title IX, so really regulations, not law, ask 11 us to do certain things with regard to the 12 Title IX process. And that section of the code 13 sort of walks you through what a hearing should 14 look like, sort of the minutia of it, not the 15 actual paragraph that says what Title IX is, 16 but the minutia of how we administer this area 17 of the law on college campuses. 18 Under that section and the related 19 notations and precedent that's followed, we are 20 meant to defer to student choice. 21 Q. What -- can you give me the statutory sections 22 or the statutory section? 23 A. I probably could if you give me a second. 24 Q. Okay. 25 A. 34 CFR 106.45, I believe.</p> | <p style="text-align: right;">32</p> <p>1 claims easier to administer. 2 Two, the law is going to change and 3 require us to include that language in October. 4 And three, as a personal measure, we 5 train on this. It's the type of campus climate 6 that we would like to see. And there's nothing 7 that prevents us from creating a more inclusive 8 environment for our students. 9 Q. But you would agree with me on a couple points, 10 during the relevant time period, sexual 11 orientation, which includes gay men, was not 12 included in the Butler policy, correct? 13 A. Yes. 14 Q. And that this -- that gay men -- actually. I'm 15 going to leave it at that, I think. I think 16 I'm good. Let me just text Regina real quick. 17 MR. LITTLE: I don't have any other 18 questions. Libby? 19 MS. ROBERTS: No questions. 20 MR. LITTLE: So I mean, do you want her 21 to sign? 22 MS. ROBERTS: Do you want to waive 23 signature or would you like the opportunity to 24 review? 25 THE WITNESS: I'll waive signature.</p> |
| <p style="text-align: right;">31</p> <p>1 Q. Okay. Just a second, I'm going to -- 2 A. I think that's right. 3 Q. I'm going to text Regina. I think we're pretty 4 close to being done. 5 I just have a couple more questions. And 6 I apologize profusely for using outdated 7 phrases and such. I'm just going -- my client 8 identifies as a gay man, right, and so that's 9 the term I want to use. 10 And you've included in your sexual 11 harassment policy now per -- you know, 12 explicitly gay men, right, they're explicitly 13 included? 14 A. Well, it doesn't say the term a gay man. Yes, 15 it does say sexual orientation, yes. 16 Q. Okay. Which we agree includes gay men, right? 17 A. Yes. 18 Q. And you included that when you redid the 19 policy, correct? 20 A. Yes. 21 Q. And can you tell me why you did that? Why you 22 felt it was important to include that? 23 A. Threefold response. One, we were already doing 24 this, so it should have been an explicit 25 portion of the policy anyway. It makes those</p> | <p style="text-align: right;">33</p> <p>1 (Deposition concluded at 10:22 a.m.) 2 3 AND FURTHER THE DEPONENT SAITH NOT. 4 5 (Signature Waived) 6 ----- 7 GEORGIA HENSLEY 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> |

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| <p style="text-align: right;">34</p> <p>1 STATE OF INDIANA) 2) SS: 3 COUNTY OF JOHNSON) 4 5 CERTIFICATE 6 7 I, Valerie Fillenwarth, RPR, a Notary 8 Public in and for the County of Johnson, State 9 of Indiana, maintaining an office in Johnson 10 County, Indiana, do hereby certify the 11 following: 12 13 That the witness herein, GEORGIA HENSLEY, 14 was first duly sworn to tell the truth, the 15 whole truth and nothing but the truth in the 16 foregoing deposition; 17 18 That all testimony was taken down in 19 stenographic notes and afterward reduced to 20 typewritten form under my direction, and then 21 the reading and signing by the witness of said 22 deposition was waived; the deposition to be 23 read with the same force and effect as if 24 signed by said witness; 25</p> | |
| <p style="text-align: right;">35</p> <p>1 That I recorded and transcribed any and all 2 objections made by counsel and the reasons 3 therefore; and 4 5 That I am not a relative or employee, 6 attorney or counsel of any of the parties, nor 7 a relative or employee of such attorney or 8 counsel, nor am I financially interested in 9 this action. 10 11 IN WITNESS HEREOF, I have hereunto set my 12 hand and affixed my Notarial Seal this 23rd day 13 of August 2023. 14 15 16 17 Valerie Fillenwarth, RPR 18 Notary Public 19 (Electronically Signed) 20 21 22 23 My County of Residence is: Johnson 24 Commission Number: NP0749965 25 My Commission Expires: July 5, 2031</p> | |

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